

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Rainey Analyst: Gloria McConnell Bill Number: SB 1508

Related Bills: _____ Telephone: 845-4336 Amended Date: 05/12/98

Attorney: Janet Ballou

Sponsor: _____

SUBJECT: Child Support Delinquencies/Public Agencies/Claims for Damages/FTB Orders to Withhold

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS INTRODUCED 02/06/98, AND AMENDED 04/14/98, STILL APPLY.

☒ OTHER - See comments below.

SUMMARY OF BILL

This bill would require public agencies to notify Franchise Tax Board (FTB) before making payments where the amount to be paid to the individual on administrative or judicial actions for damages (claims) is at least \$500. If FTB determines the claimant owes child support arrearages, FTB would have five business days to issue to the public agency an order to withhold (OTW) payment from the claimant. If the OTW is not issued by FTB within five business days, the public agency is permitted to pay the claim to the individual. The withheld payment would be remitted to FTB 10 business days after receipt of the OTW. Upon receipt of the OTW, the public agency would be required to issue notice of the OTW to the claimant.

Liens for medical and legal expenses, however, would be superior to an OTW for child support. Disputes as to the amount of the medical or legal lien would be resolved by the court that heard the underlying claim. However, in the event the claimant owes both delinquent child support and personal income tax (PIT), the withheld payment would continue to be applied to PIT delinquencies before child support delinquencies, as required under current law.

The FTB would be required to report to the Legislature no later than January 1, 2002, various data regarding the implementation and administration of the bill and, to the extent possible, identify the statewide costs incurred in complying with and recommendations for improving the process added by this bill. The provisions of the bill would be repealed on January 1, 2002, unless the sunset is deleted or extended.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> X N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

6/16/98

SUMMARY OF AMENDMENT

This amendment achieves the author's intent to reflect the current policy that PIT collection by FTB has priority over child support collection by returning the bill to the March 26, 1998, version, which was the amendment agreed upon and passed by the Senate Revenue and Taxation Committee.

The May 5, 1998, amendment adds the \$500 threshold on amounts for which FTB would be notified, requires the report to the Legislature by January 1, 2002, and sunsets the provisions of this bill.

Implementation Considerations

As discussed in the analysis of the bill as amended April 14, 1998, the bill provides that disputes concerning the amount of liens for medical or legal expenses would be heard by the court in which the original claim was settled or awarded. The bill does not provide the forum for resolving disputes involving administrative claims.

Additionally, this bill would be effective and operative on January 1, 1999. Educating the affected agencies as to their requirements under this bill may take six months to a year. The bill's provisions would be repealed at the same time the report is due. However, for the Legislature to be able to respond to a January 1, 2002, sunset date, the FTB report would have to be completed by January 1, 2001. This would require that the data be compiled no later than October 1, 2000. Assuming sufficient participation would be achieved by October 1, 1999, only one year of activity would be covered in the report to the Legislature. Staff suggests that the bill be amended to delay the repeal date until a year after the report's 2002-due date; this would allow the report to reflect potentially two full years of activities. See the attached Amendment 1 for the suggested change.

The bill requires public agencies to notify FTB of proposed payments, FTB to determine if the claimant owes child support and FTB to issue a withholding order within five business days if a delinquency is determined. Considering the short time frame allowed for issuing the withholding order and considering the limited number of claims that would be payable by a particular agency on a given day, it is anticipated that notification via magnetic media could not be justified and instead notification would be by telephone.

Additionally, it is anticipated that it would be a manual process to search FTB's records to determine if there is a child support delinquency or competing PIT delinquency. Furthermore, it is anticipated that the issuance of the withholding order would be a manual process because the existing automated collection process works off information contained in FTB's existing data bases and the information from the public entities is external to FTB's data bases.

In addition to searching the PIT accounts receivable system to determine whether a PIT delinquency is superior to the child support delinquency, staff anticipates that it would be cost effective for FTB to use the notification for PIT collection purposes, in general. Assuming sufficient staffing, FTB would determine whether the claimant owes delinquent PIT and in that event, issue a withholding order within five days for PIT collection purposes.

LEGISLATIVELY MANDATED REPORTS

The FTB would be required to report to the Legislature no later than January 1, 2002, various data regarding the implementation and administration of the bill, make recommendations for improving the collection process added by the bill, and, to the extent possible, identify the statewide costs incurred to comply with the provisions of this bill.

FISCAL IMPACT

Departmental Costs

In FTB's analysis of the bill as amended April 14, 1998, staff estimated that at least 9,000 claims would be subject to the requirement of this bill. Additionally, it has since been determined that the university system alone may have 10,000 claims annually subject to the requirements of this bill, thereby increasing the estimate to a total of 19,000 notifications annually for FTB to process to determine whether the claimant is an obligor, and to determine whether there is a competing PIT debt. Therefore, to implement and administer this bill, as required, for **child support collection purposes**, would require two additional senior compliance representatives. This would increase FTB's child support collection program costs, for the first fiscal year, 1998/99, by approximately \$123,000 and for 1999/00 approximately \$186,000. Sixty-six percent of these costs would be funded from federal reimbursements, and 34% from General Fund.

The above costs do not take into consideration the increase in departmental costs assuming the proposed payment information also is used for **PIT collection purposes**, as discussed under Implementation Considerations. To use this information for the PIT collection program, staff estimates it would need an additional senior compliance representative at a cost to the General Fund of \$53,000 for fiscal year 1998/99 and \$74,000 for fiscal year 1999/00.

Collection Estimate

Based on the discussion below, additional collections of delinquent child support and personal income taxes are estimated to be on the order of \$2 million annually after full implementation. It is estimated that approximately \$1 million of collections would be for delinquent child support cases and assuming sufficient staffing, the remaining \$1 million would be for the collection of delinquent PIT accounts.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Collection Discussion

Delinquent Child Support Collection

The collection impact of this bill would depend on (1) the number of delinquent child support obligors who have money due from public agencies because of claims for damages, (2) the net amount of the claim, excluding medical and legal expenses that would be superior to the OTW, (3) the total

amount the claimant owes for delinquent child support, and (4) the number of claimants who owe both delinquent child support and PIT and the amounts of the delinquencies.

Estimated collections were determined in several steps. First, the total amount of damages awarded was based on information from Philadelphia regarding a similar intercept program. According to the above source, of all lawsuits and claims filed in the state of Pennsylvania, one-third are filed in Philadelphia. In the first 18 months of implementation of its program, Philadelphia collected approximately \$500,000 for child support. However, approximately \$180,000 was attributable to an unusual, isolated case. This yields average annual recurring collections of approximately \$213,000 ($\{\$500,000 - \$180,000\}/1.5$). This yields approximately \$640,000 in estimated statewide collections for Pennsylvania.

Based on the estimated number of child support delinquencies in both states, Pennsylvania represents approximately 40% of California's delinquency total. Then, assuming that the amount of claims for damages paid out in California and Philadelphia are equivalent, California, in comparison to Pennsylvania, should be able to yield approximately \$1.6 million in estimated collections. However, of the projected \$1.6 million, it is estimated that 10% is attributable to termination pay upon retiring from employment and other such claims not covered by this bill. Therefore, the yield for California is reduced to approximately \$1.4 million in potential collections.

The next step was to project the amount of yield that is attributable to increased collections as a result of this bill. Based on Philadelphia's data, it is estimated that approximately 20% of the amount collected would otherwise have been collected through other collection activities (i.e., collected through wage assignments, bank levies, or voluntarily paid). This factor reduces the potential collection yield to approximately \$1.2 million in increased child support collections. Of this amount, based on Philadelphia's experience, it is estimated that approximately 3% would be lost due to the obligor's reaction (i.e., claimants may not finalize or reach agreement on the claim rather than have it intercepted to pay child support) if the public agency contacts the FTB before the claim is awarded to determine if an arrearage exists.

The last step was to project how much of the \$1.1 million in increased collections would be offset to pay delinquent PIT. According to FTB's current child support collection program, approximately 8% of the child support cases referred to FTB also owe delinquent personal income taxes. In the event of these competing debts, the amount of the claim would be sufficient to cover only the PIT delinquency. Therefore, the estimated impact of this bill on delinquent child support collections would be on the order of \$1 million annually in additional collections.

Delinquent PIT Collections

PIT collections attributable to this aspect of the bill assumes sufficient staffing to determine whether there is a PIT delinquency and to issue the withholding order accordingly and would depend on (1) the number of individuals owing past due personal income taxes who have money due from governmental agencies for payment of claims, settlements, and judgments, (2)

the net amount of the claim excluding expenses for medical and legal expenses associates with the claim, and (3) the total amount owed for delinquent PIT.

This estimate is based on information from the city of Philadelphia regarding their child support intercept program and results from both FTB's current child support and PIT collection programs.

Using the above sources and data, it is estimated that potential tax collections would be approximately \$1.1 million. Of this amount, it is projected that 30% of the amount collected would otherwise have been collected through other collection activities (i.e., through wage assignments, bank levies, manual collections and voluntary payments). The estimated percentage attributable to other collection activities is greater for PIT than for child support collections because the PIT collection program incorporates a manual process whereas at this time child support collections focuses on the automated collection process. This yields approximately \$800,000 in increased collections for the PIT collections program.

FTB Suggested Amendments
SB 1508 As Amended May 12, 1998

AMENDMENT 1

On page 5, line 27, strike out "2002" and insert:

2003